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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,480	12/05/2003	Richard W. McBride	EH-8066r (02-540)	3098

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EXAMINER

CASAREGOLA, LOUIS J

ART UNIT PAPER NUMBER

3746

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/729,480	Applicant(s) MCBRIDE, RICHARD W.	
	Examiner Louis J. Casaregola	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-12 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Objections To Specification

The specification and drawing in this case are objected to under 37 CFR 1.71(a) and 1.83(a) for the following reason:

The present invention is an engine thrust control requiring a sequence of operations, which are shown in Figure 2 and described in the specification as a series of functional block elements. Some of these block elements are assigned specific step numbers. The numbers in this case, however, are confusing since the numbering sequence appears to bear no logical resemblance to the order in which the steps are performed or claimed. Furthermore, the step numbers in Figure 2 start with 3 rather than 1 creating the mistaken impression that the steps in Figure 2 are somehow cumulative with the prior art operational steps shown in Figure 1. Applicant is therefore advised to amend Figure 2 and related portions of the specification to provide a less confusing step numbering scheme.

Claim Rejections - 35 USC 112

Claims 1-12 are rejected under 35 USC 112, first and second paragraphs, as the claimed invention is not described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and/or for failing to

particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 and related dependent claims recite steps for “measuring a plurality of engine parameters” and “inputting said plurality of engine parameters ...into a plurality of schedules”, and claim 12 includes “means” corresponding to the recited steps; see claims 1 and 12, lines 3-5. The parameters referred to are the so-called intermediate and idle power schedule airflows, “W2RINT” and “W2RID”; see for example claim 2 which specifically states this fact. The specification however states that “W2RINT” and “W2RID” are computed from other parameters rather than measured, and these other parameters (P2, T2, etc.) are monitored or measured; see page 2, lines 21-22. It thus appears that there is a conflict between the disclosure and claims as to whether “W2RINT” and “W2RID” are measured or computed. Either the disclosure fails to include an accurate written description of the invention (§ 112, 1st paragraph), or the present claim language contains a significant error (§ 112, 2nd paragraph).


Apparatus claim 12 also describes the invention as a series of means-plus-function limitations. Such limitations are proper under § 112 only if each claimed “means” clearly corresponds to a distinct element or element(s) in the disclosed embodiment of the invention. In this instance, there are five claimed “means” but the disclosed embodiment as shown in Figure 4 appears to have only three elements: engine condition sensor 43; throttle position sensor 45, and processor 47. Claim 12 includes both a means for inputting engine parameters into schedules to produce

outputs (lines 4-5), and a means for combining the outputs to produce a part power scheduled airflow (lines 6-7). It is not seen how these two "means" correspond to the structure disclosed since the only relevant element, processor 47, can account for only one of the two means. Furthermore, claim 12 also includes means for using the scheduled air flow to produce near linear thrust (lines 8-9), and it is not clear how this means corresponds to any of the elements present in the disclosed embodiment.

References

Dungan et al is cited as disclosing an example of a prior art turbojet control system that provides thrust as a linear function of throttle lever position; see column 22, lines 12-16.

L. J. Casaregola
571-272-4826 (M-F; 7:30-4:00)
703-872-9306 FAX
July 14, 2005


LOUIS J. CASAREGOLA
PRIMARY EXAMINER

If repeated attempts to reach the examiner by telephone are unsuccessful, the art unit supervisor, Timothy Thorpe, can be reached at 571-272-4444.

Information regarding the status of this application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR, and status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).